

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

VS.

CIVIL NO. 3:16CV00489-WHB-JCG

THE HINDS COUNTY BOARD
OF SUPERVISORS, HINDS COUNTY
SHERIFF VICTOR MASON, IN HIS
OFFICIAL CAPACITY

DEFENDANTS

TRANSCRIPT OF IN-PERSON STATUS CONFERENCE

BEFORE THE HONORABLE JOHN C. GARGIULO
UNITED STATES MAGISTRATE JUDGE

OCTOBER 25, 2017
GULFPORT, MISSISSIPPI

DIGITALLY RECORDED

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1 **THE COURT:** All right. Before we proceed, I
2 understand, I believe -- I hope I pronounce the name correctly.
3 Is it Mr. Jimmy Hendrix with --

4 **MR. HENDRIX:** Yes, Your Honor.

5 **THE COURT:** Yes, sir. All right. Good afternoon to
6 you, Mr. Hendrix. I understand that you had some
7 correspondence with the Clerk of Court, Mr. Arthur Johnston,
8 prior to you attending the hearing today; is that correct?

9 **MR. HENDRIX:** Yes, sir.

10 **THE COURT:** And I have your word as a gentleman that
11 you will comply with the agreement that was made and with the
12 Court's instruction?

13 **MR. HENDRIX:** Yes, Your Honor.

14 **THE COURT:** Okay. Thank you, sir. I appreciate you
15 being here.

16 All right. In this matter, is the plaintiff ready to go
17 forward?

18 **MR. CHENG:** Yes, Your Honor. We just have a few
19 opening remarks before we think we should turn it over to Ms.
20 Simpson, the Court monitor.

21 **THE COURT:** That's fine. Give me one second, and I
22 will allow that. Let me just ask the defense if they are ready
23 to proceed.

24 **MR. TEEUWISSEN:** Yes, Your Honor. Pieter Teeuwissen,
25 board attorney; Anthony Simon, special board counsel. On

1 behalf of Hinds County, we are ready to proceed, Your Honor.

2 **THE COURT:** It's a pleasure to see you both again.

3 **MR. TEEUWISSEN:** Thank you, Your Honor.

4 **THE COURT:** All right. You had some comments that
5 you wanted to initiate with. You may proceed, counselor.

6 **MR. CHENG:** Yes, Your Honor. You may recall, the
7 last time we had a status conference, just how far we had to go
8 with Hinds County Jail. This was a facility that, as Ms.
9 Simpson described, wasn't even always sure exactly who was
10 actually within the jail, whether people had finished their
11 sentences. They couldn't even determine what their actual
12 staffing was. And I think what was clear from the last phone
13 conference with the Court is that significant steps have been
14 taken to address these very, very basic problems.

15 I think what you will hear today from Ms. Simpson,
16 however, is that they are still far, far from compliance with
17 the agreement. So while we are very happy that steps have been
18 taken, much still needs to be done, and the continued attention
19 of this Court is something that we do believe is going to be
20 required. With that said, however, I will turn it over to Ms.
21 Simpson.

22 **THE COURT:** Okay. Good afternoon, Ms. Simpson.

23 **MS. SIMPSON:** Good afternoon. May I approach?

24 **THE COURT:** Yes, ma'am. Ms. Simpson, that podium has
25 a button to the right if you would like to raise it or lower

1 it.

2 **MS. SIMPSON:** I think I might just not mess with it.
3 Thank you. Thank you, Your Honor, and good afternoon.

4 **THE COURT:** Yes, ma'am.

5 **MS. SIMPSON:** It's a pleasure to be back here. We
6 did our site visit on October 16th through the 20th. And when
7 I say we, that's myself and the three subject matter experts
8 that accompanied me, and that's David Parrish, an expert on
9 correctional operations, Jacqueline Moore, an expert on medical
10 services, and James Moser, an expert on juveniles.

11 We had great cooperation from everyone at the jail and
12 within the county and within the sheriff's office. One thing
13 that was particularly helpful this time around was that there
14 actually seemed to be a little more crossover between the
15 operations and the detention division. As we mentioned the
16 last time, under the sheriffs, there's an operation division
17 and a detention division. Detention oversees much of the jail
18 operations, but there are some areas which cross over, and we
19 had people from the operations division participating in some
20 of the meetings that really made it much more productive. So
21 we appreciated that and hope we will continue to see that.

22 With respect to a timetable on a report, I wanted to sort
23 of lay that out a little bit. Obviously, the site visit having
24 wrapped up just last Friday, we don't have a written report at
25 this time. We probably will do priority recommendations as we

1 have done in the past, and that's from all of the team, a list
2 of recommendations that we really want the defendants to focus
3 on prior to the next site visit.

4 An actual report is due 30 days after the site visit, so
5 that will be around November 20th. Then there is a time for
6 comments from both plaintiff and defendant. And after those
7 comments, we issue a final report. So sometime probably
8 mid-December, there should be a final report that we will be
9 filing.

10 As Mr. Cheng mentioned, the last phone conference focused
11 quite a bit on progress that had been made since the prior site
12 visit. I'm not going to repeat all of that. I will raise some
13 of that augmented by some of our observations during this site
14 visit. However, this conference is more focused on those areas
15 that we see there needing to be more progress, and in some
16 instances, significantly more progress. That's sort of the
17 nature of this work, is when you see something being
18 accomplished, it's time to push to the next level. And there
19 is quite a bit of progress that remains to be made.

20 I wanted to start with some of the areas that we've talked
21 about as being most critical, staffing being the obvious one.
22 At the time of the last status conference, in-person status
23 conference and the site visit itself, we really have been
24 unable to determine exactly how many positions were allocated
25 to the detention division and how many of those positions were

1 actually being used for detention services.

2 Significant progress has been made in that area. Our
3 corrections expert feels fairly confident that he now has a
4 good listing, with the help of the sheriff and county staff, of
5 the number of positions and who's doing what.

6 So just to sort of elaborate on that, he determined that
7 there are approximately -- I shouldn't say approximately --
8 there are 410 positions that are in the sheriff's office. 270
9 of those are allocated to detention. 140 are allocated to
10 operations. He drilled down to the point of determining
11 whether those 270 positions were actually being used for
12 detention. At the time of the site visit, there were still two
13 that were in question. One was moved immediately before the
14 site visit, and one was moved at the time of the site visit.
15 So he's fairly confident that that breakdown is accurate and
16 those people are doing duties where they are said to be doing
17 them.

18 The monitoring team has recommended that they shoot for
19 275 positions for this fiscal year, and the budget was passed
20 on October 1. As you might remember, the staffing analysis
21 actually says that 433 positions are needed to cover the
22 operations in the three facilities. 275 is far short of that,
23 but in terms of a manageable goal, that appeared to be a
24 manageable goal for this fiscal year. However, there are --
25 that does leave five positions that are not funded, and so they

1 will need to find -- to meet that goal, they will need to find
2 those five positions either through additional funding or
3 moving it from operations.

4 In addition to finding those five positions, they, of
5 course, need to fill all of those positions. At the time of
6 the last site visit, they were at probably around 200. Again,
7 it was somewhat unclear at that time. They are now at -- or at
8 the time of the site visit were at 250. So that was actually
9 significant progress and more than we actually expected, but
10 still a far cry from the 275, and certainly a far cry from the
11 433.

12 We did notice the impact of the additional staffing. This
13 trip there were officers in each of the housing units at RDC.
14 In the past, that had not been the case. There was often one
15 officer assigned for the four pods of the housing unit, and
16 really, everybody had to be locked down, and that one officer
17 had to keep moving and obviously could not see a lot of what
18 was going on in the pods or in the units.

19 There may be an opportunity to reduce the required number
20 of staff. The county operates three facilities. There has
21 been a reduction in the population of the total detention
22 facility, partly as a result of returning state prisoners,
23 partly as a result of limiting the people that are there on
24 misdemeanors, which I will talk about a little bit later. But
25 with that reduction, there are some opportunities to close some

1 of the units and potentially a facility which would greatly
2 benefit their staffing situation.

3 So right now there does appear to be significant
4 improvement in the area of staffing, but particularly if they
5 keep all three units open, it's a long ways to go to get to
6 that 433.

7 Also, with respect to staffing, it's of course not only
8 necessary to hire people; it's necessary to retain people. One
9 of the initiatives that we had hoped to see and had been
10 discussed was introducing a step increase, salary increase, for
11 detention officers and sergeants. This was discussed. It did
12 not happen in this budget. So they will need to work more on
13 retention, then, without that step increase.

14 I should mention that they did adopt in the budget a base
15 salary increase for detention officers, and that brings them
16 much closer -- similar to other correctional officers in the
17 area, so that makes them much more competitive, and that was
18 included in this fiscal year's budget.

19 There is one position in particular that we believe to be
20 critical that has not been filled, and that's a deputy director
21 for the jail director. So we have definitely urged them to
22 fill that position as promptly as possible. Really the upper
23 level staff is stretched far too thin to be able to maintain
24 the operations in the three different facilities.

25 Another area of improvement that I want to focus on is

1 training. Of course, that goes hand in hand with increased
2 staffing. One has to have the training of that new staff, and
3 there has been a new interim training director that has been in
4 that position I believe about six weeks or so, and his efforts
5 appear to be paying off. The preservice training is happening.
6 The graduates appear to be invested in their work, motivated.
7 The training material has been reviewed. It is professional
8 and extensive. It is subject to further review and has some
9 tweaking to do. Perhaps the most problematic aspect of the
10 training as it stands now is that it is really not tailored to
11 this specific facility, and in part, that's because they really
12 have not gotten to where their policies and procedures and
13 their post orders are what they need to be just yet, which I
14 will talk about a little bit later.

15 In addition, the training does not currently provide for
16 direct supervision. We talked about that a little bit at the
17 last time. The RDC, the Raymond Detention Center, is designed
18 as a direct supervision facility. Direct supervision is
19 definitely the best practice in correctional work these days.
20 The Raymond facility has not been operated as a direct
21 supervision facility because of the lack of staffing. So as
22 their staffing increases, they need to move towards that, and
23 their training needs to incorporate direct supervision
24 practices.

25 They also have many inexperienced correctional officers on

1 the floors these days. Because they have improved their
2 staffing levels so much, it's a good thing, but the down side
3 is that they have a lot of inexperienced people, and they are
4 talking about incorporating a field training component to their
5 training that is really going to be essential to get so many
6 young inexperienced officers up to a level where they can truly
7 function in that jail, particularly given that it does still
8 have a lot of challenges that even an experienced officer would
9 have trouble with.

10 And I should say in this area, as with staffing, that all
11 of these areas need to be attended to to make sure that there
12 is not backsliding. The staffing needs are now in the budget,
13 but they need to continue to be prioritized. The training is
14 really in its infancy and really needs to be maintained at that
15 level and improved in the areas that we've talked about. So
16 that's really critical in this area not to see any regression.

17 The policies and procedures, again, as probably reported
18 in the last visit, sort of skeletal policies and procedures
19 were adopted. It was an effort to get policies and procedures
20 in place, but they really need quite a bit of additional work.
21 And I think it became apparent that outside consultation was
22 needed to get the policies and procedures where they needed to
23 be.

24 The county has -- I believe has made arrangements or is in
25 the process of making arrangements with Jackson State

1 University to build the policies and procedures. That requires
2 an additional expert to come on board with Jackson State to
3 provide the substance of what's needed in jail policies and
4 procedures. That does seem to be proceeding, but this, of
5 course, is another area where there's concern about how long
6 it's been. It's been a year now, operating in part with no
7 policies and procedures, in part very deficient policies and
8 procedures, so it's well overdue. And in addition, it's hard
9 to train new officers adequately if you don't have new policies
10 and procedures that you're training them on. So that's an area
11 of great need.

12 Fines and fees: As you know, at the time of the last site
13 visit and particularly the site visit before that, there were
14 quite a few individuals who were being held in the jail on
15 fines and fees that -- orders that didn't comply with
16 constitutional requirements. As of last January, there were a
17 hundred people that were in on fines and fees with these
18 pay-or-stay orders. As of this site visit, there were zero, so
19 that was very encouraging.

20 The county is also sponsoring a training -- or
21 participating in a training of the judges that will happening
22 in November on the new rules of criminal procedure that really
23 walk them through what they need to be doing in this area.

24 Another area of progress is that on the Criminal Justice
25 Coordinating Council, a consultant has been hired. Their first

1 visit took place at the same time as our site visit, so that
2 was last week. And I believe the consultants are hoping to
3 have the first CJCC meeting the first week in December.

4 So I want to talk about records. Here we got into areas
5 where there is some progress, but there continues to be
6 significant concern. As of the last site visit, there was
7 pretty widespread inaccuracy in the record system. There were
8 people that were said to be in custody who were not. There
9 were people who had no files whatsoever. There were people who
10 were mistakenly other actual people in the files. People were
11 in beyond their time.

12 And so it was very, very problematic. We were focused on
13 some other items as a greater priority this trip, so we did not
14 do a deep dive into the records. There did appear to be
15 progress. There were three individuals who now had different
16 areas of focus within this area trying to track people and make
17 sure their records were up to date. We still did observe some
18 individual problems. The indicted -- they produce two lists
19 every month of people who are indicted and people who are
20 unindicted after 90 days. We ran into people who were in both
21 of those categories but were not on either of those lists. So
22 it would certainly indicate that the lists are still not
23 entirely accurate, but they did have the appearance of being
24 more accurate. In the past, there were people on the list that
25 appeared to be in jail three to four years that when reviewed

1 were not even in jail. There were not so many of those
2 instances during this trip.

3 **THE COURT:** Unindicted longer than 90 days?

4 **MS. SIMPSON:** Right.

5 **THE COURT:** So you are arrested on a felony,
6 no-bonded, and then are waiting for presentation to a grand
7 jury?

8 **MS. SIMPSON:** That's my understanding. I'm not as
9 familiar with criminal procedure under Mississippi law, but it
10 appears that there is not a deadline in the rules, and people
11 have in the past sat for many, many months without being
12 indicted.

13 I believe the senior judge at the circuit court which
14 oversees felonies has, as a result, requested that the jail
15 generate this list identifying people that have been there 90
16 days. That list goes to her, and then she reviews it. And as
17 I understand it, she releases some people on their own
18 recognizance, but not everybody is released on their own
19 recognizance, so some people continue to sit unindicted.

20 **THE COURT:** I wonder if that list could be presented
21 to the public defender. Is there a public defender's office in
22 the county?

23 **MR. TEEUWISSEN:** Yes, Your Honor. There is a public
24 defender's office that is paid for by the county.

25 **THE COURT:** How would that work? You've got you're

1 charged, you're arrested, and there hasn't been presentation to
2 a grand jury over 90 days, the list is given to the public
3 defender, and then the public defender -- I would think it
4 would be incumbent on the public defender to notify or maybe to
5 file a motion with the circuit court. No?

6 **MR. TEEUWISSEN:** We can certainly ask that. The
7 public defender's office has been cooperative in what we've
8 asked them to do, and I will have some remarks about some of
9 the things they have done since our last status conference. We
10 certainly have no objection to that.

11 **THE COURT:** Wait. I'm not directing or mandating.
12 I'm simply thinking out loud as I hear it, but please don't
13 take that as a directive.

14 **MR. TEEUWISSEN:** Yes, Your Honor. I will also say at
15 this point, it may be appropriate to add that I had a
16 conversation with the senior circuit judge yesterday, and she
17 and I will meet after next week's training that justice
18 kitchens is putting on with the judges, and she has agreed that
19 it would be appropriate if the county -- if the board passed
20 some resolutions, and then on behalf of the board, I come
21 before her and ask her to administratively do certain things
22 that would help with the process.

23 **THE COURT:** Okay. Well, there you go. Okay. Thank
24 you, sir. Did you want to add something, sir?

25 **MR. CHENG:** Yes, Your Honor. This is true of the

1 people who have been waiting a long time for indictments is a
2 fairly complicated one, and it has had an impact on conditions
3 in the jail. One of the reasons we've asked that the CJCC be
4 created and include local members of the judiciary is that
5 remedying this issue does require some cooperation among all
6 the branches in county government.

7 **THE COURT:** Okay.

8 **MR. CHENG:** My understanding is, for example, some of
9 the individuals may have private counsel. Some of them have
10 public defenders representing them. And so who you notify and
11 when that notification should occur really should be a function
12 of the criminal justice process. That said, I do think the
13 list, if it's something that can be shared and made public, at
14 a minimum should be made available to the members of the CJCC.
15 And we do think it actually makes sense to make it available to
16 members of the defense bar, especially people who have
17 representation. But as I think we've noted before, we try to
18 take baby steps in this case.

19 The level of coordination required to make sure that these
20 types of lists go to the right people, it may be something to
21 look at in the near future, but right now they are just having
22 a hard time figuring out who is in the jail, let alone who is
23 representing who and which members of the judiciary need to be
24 looped in on the process.

25 **THE COURT:** Okay. I didn't mean to interrupt you,

1 Ms. Simpson.

2 **MS. SIMPSON:** No, that's fine. I think also we
3 talked about providing the list to the public defender. I
4 think it would also be valuable to provide it to the district
5 attorney. Obviously, it's the district attorney that needs to
6 take the case before the grand jury, I believe, in Mississippi.
7 And there are certainly issues there, but that's where it also
8 should land.

9 **THE COURT:** Yes, ma'am. I agree.

10 **MS. SIMPSON:** So there are -- one of the issues we
11 ran into last time was people that were in beyond the time
12 limit for people arrested for probation violations. They do
13 have someone tracking that specifically, and that appears to be
14 much improved as well.

15 There does appear to be sort of an ongoing issue with sort
16 of understanding the court orders and having access to court
17 information. As I understand it, the circuit court there moved
18 to a different information management system about two or three
19 years ago, and the jail no longer has access to that. And so
20 they're not able to sort of research and look up where somebody
21 is in the process if there is an issue. So that has certainly
22 been one of our recommendations is that they take the necessary
23 steps to be able to access the court information so they can
24 fully understand where in the process an individual is and what
25 the next step is.

1 **THE COURT:** So circuit court has gone to electronic
2 case management, and the sheriff doesn't have access to it?

3 (Inaudible response).

4 **MS. SIMPSON:** And we did run into at least one
5 situation where there was an order that was admittedly very
6 unclear, and it appeared to be being read probably not
7 unreasonably but not accurately by the individual that was
8 trying to figure out why that person was in. And she was
9 unable to access the Court database to get any further light on
10 it. It raised a couple of issues. One was access to the
11 database. Two was communication with the court directly.
12 Three was the level of understanding of the court orders and
13 the oversight of those individuals trying to make sense of it.

14 **THE COURT:** That's a circuit court order?

15 **MS. SIMPSON:** It was a circuit court order as I
16 recall.

17 **MS. MAYBERRY:** County order.

18 **THE COURT:** County court.

19 **MS. SIMPSON:** County order. Thank you, Ms. Mayberry.
20 A county order. It was admittedly unclear, but the individual
21 was sort of taking a tack that really wasn't accurate, didn't
22 realize it wasn't, didn't have access to the database that
23 would have enabled her to further understand it. So it
24 elucidated a number of problems with the system there.

25 A couple of other areas within sort of the records and

1 understanding court orders. The individuals in records that
2 oversee and initiate releasing do not get copies of the no-bill
3 list, the list of people who are not -- who the grand jury has
4 declined to indict, so those are delayed on a somewhat regular
5 basis until they find out.

6 **THE COURT:** Who doesn't get a copy of the
7 no-true-bill list?

8 **MS. SIMPSON:** The records office in the detention
9 center.

10 **THE COURT:** That seems like an easy fix.

11 **MS. SIMPSON:** Some of these are easy fixes. And I
12 should say in this area, one of the things we recommended last
13 time is that they seek technical assistance from the National
14 Institute of Corrections to really review their entire booking
15 and releasing and records process and most likely revamp it.
16 They did apply for that technical assistance. I believe it's
17 just recently been approved, and hopefully that will help
18 identify and resolve some of these problems.

19 There still is a very systematic problem in terms of who
20 there gets the orders, who is primarily responsible for
21 implementing the orders, who it's supposed to be shared with,
22 what the supervisory chain of command is in that area and sort
23 of a lack of communication between all involved.

24 **THE COURT:** That, I would think, would be the circuit
25 court administrator. Right? Can you bring that up, do you

1 mind, when you meet with Justice Kitchens and the Chief Circuit
2 Court Judge?

3 **MR. TEEUWISSEN:** Absolutely, Your Honor. There are
4 four circuit judges and three county judges. Each of those
5 judges has his or her own court administrator. Unquestionably,
6 Your Honor, we need to get all of them on the same page.

7 **THE COURT:** Maybe the clerk. How about the county
8 court clerk?

9 **MR. TEEUWISSEN:** Circuit --

10 **THE COURT:** Just a suggestion. And the circuit
11 clerk. I would think the sheriff would love to know who was no
12 true billed for an almost immediate outprocessing.

13 **MR. TEEUWISSEN:** I would hope he could pick up the
14 phone and call the circuit clerk. I understand they are on
15 fairly good terms.

16 **THE COURT:** But he's not going to know when the --
17 he's not going to know when the grand jury report is issued.

18 **MR. TEEUWISSEN:** No, Your Honor. I was thinking if
19 he asked the circuit clerk to provide it, I'm pretty sure his
20 circuit clerk could, but I will personally make sure the
21 circuit clerk provides that to the sheriff.

22 **THE COURT:** That's got to become a regular --

23 **MR. TEEUWISSEN:** Right.

24 **THE COURT:** This has got to be a regular, and then
25 the sheriff needs to let them know who needs to receive it to

1 make it happen. But those are -- okay. Good. Thank you. I'm
2 sorry. I didn't mean to interrupt you again.

3 **MS. SIMPSON:** That's fine. Feel free to interrupt
4 with questions at any time and clarification from anybody here.
5 It's hard to absorb all of this in a one-week site visit.

6 One other area I wanted to mention with respect to records
7 and court orders. The competency process -- in part, I think
8 because of the lack of forensic beds at the state hospital, the
9 competency process ends up being very protracted. There's one
10 individual who could not remember exactly how long he'd been in
11 jail, but it was somewhere between six and eight years. He was
12 eventually found to be incompetent, was sent to the state
13 hospital, again, after many, many years delay, was there for
14 five months, was said to have had his competency restored and
15 then has come back to the jail.

16 The records -- again, they don't get very good records of
17 what is happening in this competency process, and neither the
18 medical staff nor the records staff understand the competency
19 process enough to know where in the system somebody actually
20 is. The medical staff thought this individual was waiting to
21 go back to the state hospital. In fact, he supposedly had
22 found his competency restored and was waiting for a trial date.
23 So they were sort of unable to push the system in the direction
24 it needed to go because of a lack of understanding.

25 And it does also appear to be sort of a chronic issue that

1 the state hospital has a list of 12 people from Hinds County
2 Jail that they understand to be waiting for a hospital bed.
3 The medical staff at the Hinds County has a list of 23 people
4 they think are waiting for a hospital bed. So there clearly is
5 a disconnect or a lack of understanding of where people are in
6 the process.

7 **THE COURT:** Okay.

8 **MS. SIMPSON:** And the impact of that is partly that
9 it seems that very little happens in the system without
10 somebody pushing the system, so you have to understand where a
11 case is in order to push it in the right direction.

12 I wanted to --

13 **THE COURT:** Wait, wait. Go back to that one.
14 Somebody has got to -- I don't understand how that happened.

15 **MS. SIMPSON:** How somebody can be there six to eight
16 years?

17 **THE COURT:** Well, the -- if it's -- as I would
18 appreciate it, I'm suspecting if someone is held six to eight
19 years, it's probably a felony case?

20 **MS. SIMPSON:** Yes, Your Honor, it is.

21 **THE COURT:** So someone is arrested on a felony. And
22 then has he been indicted yet or not? Probably indicted?
23 Maybe? Yes?

24 **MS. SIMPSON:** That case is indicted. I can't tell
25 you how long he sat there before indictment, but it is

1 indicted.

2 **THE COURT:** Okay. So it's indicted, and then
3 somebody asserts that the defendant is not competent?

4 **MS. SIMPSON:** That's correct.

5 **THE COURT:** That would be a defense attorney.

6 **MS. SIMPSON:** That's correct.

7 **THE COURT:** All right. So a defense attorney asserts
8 incompetence, and then potentially it's held before a circuit
9 judge, and the circuit judge orders a competency hearing and
10 then refers to -- it's Whitfield, I believe, is the medical
11 facility?

12 **MS. SIMPSON:** The first step is actually the
13 competency evaluation. And so that can be done outside of the
14 state hospital, but in some instances, the evaluator recommends
15 that the evaluation itself be done in the state hospital. And
16 so that then results in a delay just getting to the state
17 hospital for an evaluation.

18 **THE COURT:** Okay.

19 **MS. SIMPSON:** Then it comes back and gets the
20 competency hearing.

21 **THE COURT:** Okay.

22 **MS. SIMPSON:** The individual, if found incompetent,
23 then has to wait for a state hospital bed to be restored to
24 competency.

25 **THE COURT:** All right. So -- okay.

1 **MS. SIMPSON:** There are only 15 forensic beds at the
2 state hospital for the entire state, and so that is in part
3 where the enormous delay comes from, particularly if the
4 individual had to go to the state hospital first for the
5 evaluation and then for the restoration.

6 **THE COURT:** Okay. And I guess I meant -- I don't see
7 that at this point as attributable to the Hinds County Sheriff.

8 **MS. SIMPSON:** That's correct. That delay --

9 **THE COURT:** Or maybe even the county. But I would
10 think that -- well, the defense attorney, that should be --

11 **MS. COON:** Your Honor, the Department of Justice also
12 has a statewide case involving the state of Mississippi mental
13 health services, so this may be an issue that is addressed in
14 our other pending investigation.

15 **THE COURT:** All right.

16 **MS. SIMPSON:** I raised it here because of the lack of
17 understanding of where people are in this process and because
18 it would appear that very often one doesn't get the court
19 hearing or a hospital bed unless somebody is actively
20 advocating for it. If you're pushing the wrong way, you're not
21 going to get what is needed in the next --

22 **THE COURT:** Yes, ma'am.

23 **MS. SIMPSON:** I wanted to mention about the situation
24 with juveniles. The decision as to where the ultimate location
25 for juveniles being charged as adults would be -- was

1 initially -- had an initial deadline of January 1st of 2017.
2 That deadline was missed. However, the county was
3 investigating and getting information on the various possible
4 alternatives.

5 It has been decided by the county that the juveniles being
6 charged as an adult will be moved over to Henley-Young, the
7 juvenile facility, over time. And this move has actually
8 already started. So that was actually ahead of schedule to
9 some extent on the actual implementation, although it will take
10 time to complete the move in that they are primarily just
11 having new juveniles being charged as adults moving into
12 Henley-Young and not transferring current youth from RDC to
13 Henley-Young.

14 Some of those youth are aging out and moving into the
15 adult population. Some of them may go to trial. And the
16 reasoning is that having spent so much time at the adult
17 facility as they had, that some of them would be difficult to
18 transition into the setting with youth not being charged as an
19 adult. So that's the reasoning for the gradual implementation.
20 Our team member expert on juveniles agrees with that approach
21 to do this gradually and thoughtfully.

22 This process is not without challenges. The length of
23 stay at Henley-Young for youth not being tried as adults is
24 typically very short, around 21 days. Obviously, the youth
25 being tried as adults, particularly in the current system, may

1 stay for years. And so that's an adjustment for Henley-Young.

2 Henley-Young currently has a low number of juveniles,
3 which allows for this change. That might not always be the
4 case. That would present future challenges.

5 As I'm sure you know, there's also a class action
6 involving Henley-Young that has its own consent decree
7 provisions. Significant progress has been made in that case.
8 I think there is some concern on the part of the parties to
9 that case that this move may jeopardize compliance in that
10 case, just because of the additional people involved and
11 perhaps some additional challenges that that population
12 presents.

13 And the Henley-Young people feel that there are probably
14 some additional security modifications that need to be made for
15 this additional population, perhaps some expanded service
16 facilities as well. So there are things to be worked out in
17 that move, but it does seem to be happening in a thoughtful
18 manner.

19 In addition, there are probably some legal issues that
20 will need to be worked out in terms of how the two consent
21 decrees sort of overlap and how to bring them together.

22 The plaintiff in the Henley-Young case is the Southern
23 Poverty Law Center, and I think they are now involved in the
24 conversation and are working that out as well.

25 So still remaining are the youth that are still at RDC and

1 exactly what and when they will be able to be moved out of RDC
2 or complete their cases. In the meantime, though, they still
3 are entitled to programming at RDC. That programming has
4 improved somewhat in the sense that there are fewer individuals
5 there now. So the person that has been providing some
6 educational services is able to add some one-on-one time.
7 There is also a daily schedule that is provided for those
8 youth. However, it's still minimal and way below standards for
9 programming for youth in the system.

10 The supervision in the unit is not where it should be.
11 There should be security officers specifically trained for
12 working with youth. There is some of that. As with the
13 facility as a whole, they have some very inexperienced
14 officers. There was an instance not too long ago where there
15 was an altercation on the unit. The juvenile expert reviewed
16 the videotapes of it, and the inexperienced officer really had
17 the opportunity to intervene at least four times in the course
18 of the altercation and did not. The youth was badly beaten,
19 has a broken jaw and is in the medical area of the jail at this
20 point now for several weeks. So that appeared to be not
21 purposeful on the part of the guard but inexperience and the
22 need for additional training. He's been in medical since
23 August 27th, so about a month now.

24 And I should say this actually goes towards renovations,
25 but he was -- he was in medical, and because he's a juvenile,

1 he had to be separated from the adult population that was in
2 medical. At the same time, they had a person who might have
3 tuberculosis come in. They have to use a special cell for
4 people in that status. The youth was in that cell in medical,
5 so that individual was put back into one of the cells in the
6 booking area that the monitoring team had previously said
7 should never be used for housing individuals. So that
8 presented the additional problem of going back to using those
9 booking cells.

10 When that was brought to the attention, they found another
11 location for the youth so that person in booking could be moved
12 to the medical, but the booking area should never be used for
13 housing individuals. It's very, very inadequate.

14 Another area of concern, and this is one that we haven't
15 addressed very directly, and we probably need to drill down
16 more in the next visit, but there really does not seem to be a
17 very strong or consistent effort to comply with the Prison Rape
18 Elimination Act, PREA. There are provisions in the settlement
19 agreement that require compliance with PREA. Obviously, the
20 law itself requires compliance. There's supposed to be a PREA
21 officer, there's supposed to be signs posted, there's supposed
22 to processes that inmates are informed of to report. None of
23 that actually appears to be happening. In many instances
24 nobody could identify who the PREA officers were or what the
25 requirements were, and it was acknowledged that in at least one

1 of the facilities, there is a current problem with sexual
2 assaults taking place. But again, there's no clear officer or
3 process assigned in this area. So that is a major concern.

4 In the area of grievances, the jail just moved to a new
5 system. Hopefully, that system will work eventually, but right
6 now it is creating quite a bit of havoc. In sort of not
7 attacking it too directly because it is a new system and those
8 things often have glitches, but it is something that needs to
9 be attended to promptly. It's a kiosk system where they have
10 kiosks in the different pods, but many of the inmates
11 complained that they were unable to get into the system. They
12 enter their name, and then they have a password, which I
13 believe is their inmate number. They enter that, and they are
14 told no known inmate in the system.

15 Some of the inmates interpreted that to mean that they
16 were being retaliated against for something they had done
17 previously, obviously upsetting them quite a bit. And while it
18 was so widespread, that didn't appear to be the case, but it
19 definitely is causing agitation that is not helpful.

20 So many of the passwords don't work. The work center
21 system has been completely shut down. They have moved back to
22 a paper system because they can't get it to work. And there
23 may be some training that needs to happen on the system of
24 staff, but right now there does not appear to be any way to
25 aggregate it, so the staff cannot say, oh, we've had five

1 grievances involving medical, ten involving kitchen. So it
2 just has sort of a completely random list.

3 There's no category in the system for emergency grievances
4 which do need to be identified. There's no provision for
5 individuals that are illiterate. There does seem to be a
6 provision for Spanish language, although none of the staff were
7 aware of it, and likely the inmates not as well.

8 The way it is set up, it's a little bit difficult to
9 navigate through for the inmates, and so they end up marking
10 things that are not necessarily quite accurate in terms of
11 categories, and there's no way for the staff to override that.
12 So all of that hopefully can be worked out if they get down
13 with the vendor and sort of figure out how it works and deal
14 with some of those glitches.

15 On sort of a systemic level, however, there needs to be, I
16 think, a greater understanding on the part of the staff as to
17 when they resolve a grievance and when they don't. So, for
18 example, one of the grievance officers that oversees this was
19 responding to a grievance that asked about some property. She
20 referred the individual to the supervisor on the unit and
21 marked the grievance as resolved. Well, that's not really
22 resolved. There's actually nothing of substance that resolves
23 it, and there's actually no oversight above her other than
24 potentially the inmate saying what happened.

25 So there needs to be better understanding of how

1 grievances are responded to and sort of hierarchy of who
2 oversees that process, and also a better ability to track
3 medical grievances. Those tend to appear to go to medical, and
4 the grievance supervisors never see what happens, so they don't
5 actually even know if it's responded to.

6 Another very problematic area is reporting. And this also
7 has been both a training and an IT issue. On the IT side there
8 was hopefully a productive meeting, and we will see some of
9 those glitches getting out of the system. The way the reports
10 were being completed, they were very cursory and often no
11 indication of what happened. So a fight happened on the unit,
12 so and so went off to medical, and that's it. We know nothing
13 about, you know, was there a disciplinary action, did the
14 person die, did they come back? So part of that problem is
15 that the IT system does not tie those sort of sequential
16 reports together, as well as the fact that for the most part,
17 they're not happening, so nobody is doing supplemental reports
18 that identify what happened next. And even if they did, there
19 would be no way of tying it into the original report so that a
20 supervisor or a monitoring team could track it.

21 They also have -- are not tying in use of force reports.
22 It's not entirely clear how many are even being done, but they
23 are not tied in. And they don't really have a disciplinary
24 system, so it's not tied in. Typically, the officer that's
25 involved is deciding on the disciplinary action. There's not

1 really any guidance or consistency to what that action is. And
2 typically, with these reports, we see no supervisor signature
3 and no supervisor approval. And the reports themselves are
4 very cursory, for the most part. Obviously, some people are
5 better than others, but many of them are very cursory and do
6 not really provide the information that's needed.

7 So it's in part a training issue to make sure that the
8 officers know how to write an adequate report and know when
9 they need to do supplemental reports, know when they need to do
10 use of force reports, and then it's an IT issue to actually tie
11 those together so that the supervisory staff and the monitoring
12 team can actually follow an incident all the way through, as
13 well as training of supervisors to make sure that those are
14 signed off on and that the action taken is reviewed
15 substantively.

16 On the disciplinary side, one of our recommendations is
17 they actually have a disciplinary committee and that they start
18 setting some policies and procedures to identify what
19 infractions get what discipline and ensure that there's some
20 consistency to that. And they often -- it's not unusual to see
21 an entry that an inmate got 60 days segregation or confinement,
22 and that is never appropriate. Usually 30 days is the max.

23 So on all of those levels, there needs to be work related
24 to reporting and discipline and use of force, and that's a
25 pretty profound need. Right now it's difficult to track not

1 only for the team but for the supervisors to know what is
2 really happening with respect to incidents of use of force.

3 Classification: There was improvement in the area of
4 classification. At the time of our last site visit, they were
5 not classifying misdemeanants. All misdemeanants were treated
6 as low risk, which they are not necessarily. They have now
7 started classifying misdemeanants -- even though they are
8 classifying them, they pretty much always send them to the work
9 center, and so that's probably the next step is to understand
10 that doing the classification scoring itself is just the first
11 step. Then misdemeanants need to be evaluated for what housing
12 location is appropriate, and it's not always going to be a low
13 risk housing unit. So that -- that's the next step in sort of
14 moving that along.

15 One very good improvement was that the classification
16 office is now being consulted whenever there's a change in an
17 inmate housing assignment. It used to be that the corrections
18 officers would, as a result of an incident or a request or
19 whatever, would just move somebody, not even telling
20 classification. Now there's a process by which if they have to
21 move somebody immediately, they go to a staging area, and
22 classification comes in and determines the appropriate housing
23 area. So that is an improvement.

24 There is still a lack of clarity on how the three
25 different facilities should be used. There's no real policy

1 and procedure on what classification levels. As I said,
2 misdemeanors almost always are sent to the work center, whether
3 or not they pose a higher risk. So there needs to be a more
4 thoughtful process of what works -- which facility works best
5 for which inmates and for the system as a whole. But there was
6 generally improvement in the area of classification.

7 A major issue that is just ongoing is maintenance of the
8 facility. And I know that there's some frustration that with
9 the lack of supervision, any repairs that are made are often
10 undone by unsupervised individuals in the unit, and that may be
11 the problem. Other than that, it is unclear what exactly the
12 barrier is, but we have encountered toilets that don't work and
13 have not worked since we started going a year ago. Same with
14 showers that don't work. The sallyport in RDC has not worked
15 pretty much the entire time we have been going there.

16 A number of the cells have no functioning lights. We
17 visited with some of the inmates in the segregation unit. The
18 cell does not have any exterior light. Many of those lights
19 were out. The only light they could get for reading was if
20 they laid on the floor and looked at the light that came
21 through the crack at the bottom of the door. And it has been
22 reported, the holes in the walls and the doors that don't work.
23 So there's ongoing problems with maintenance that just are
24 there every time we go.

25 In addition, there are six what are called isolation

1 units. So each pod has four units, and each has two isolation
2 units, which is a group of four cells in kind of a separate
3 area. And four of those isolation units have been
4 nonfunctional because of needed repairs.

5 This has a big impact on the management of inmates because
6 they are not available to use as protective custody or suicide
7 rooms or additional areas for working with inmates that have
8 special management needs. So having those isolation units out
9 of commission has really limited their ability to provide for
10 special management inmates.

11 The booking area we've talked about for some time, and I
12 understand that they are looking at having some capital money
13 to redo the booking area. It's very, very needed. The cells
14 in that area are not only very bad in themselves, just in terms
15 of accommodating people, but the doors are almost solid metal.
16 They have this little lattice that has been covered up and
17 uncovered and modified so many times that you basically can't
18 see into the booking cells at all. And it's really important,
19 particularly in booking, that you be able to see into those
20 cells because you have people coming in who may still be on
21 drugs, coming down from drugs, coming down from alcohol, off
22 their medicine. In booking more than anywhere, you have
23 inmates that are potentially unstable, and you need to have
24 that observation.

25 Also, the medical area, and I'm going to talk about that a

1 little bit later, is in great need of renovation. It has the
2 same problem with doors being impossible to see through in an
3 area where that's the whole point of having them there is for
4 observation. And the Jackson Detention Facility downtown, the
5 transport area there needs to be remodeled as well.

6 Another maintenance issue is two out of the three pod
7 security doors which lead from the pods -- there's four pods --
8 well, there's one that's used differently, but two out of the
9 three pods used for housing, their security doors that lead
10 from the pod into the central corridor can't be closed, so
11 that's another maintenance issue that involves security, a
12 particular concern for security.

13 On security itself, we found that there was really sort of
14 a problem, particularly at RDC, in maintaining the rules
15 regarding security. So, for example, in most jails and
16 prisons, you have two -- a set of two doors where you go in one
17 door, it closes behind you, and then the other door opens. In
18 RDC, they routinely just open both doors together, which is
19 convenient and makes it nice for us in terms of getting around,
20 but it really is not the way security is supposed to work.

21 There was one instance where the master control center
22 door was propped open, even though there was a trustee inmate
23 in the area and actually no security officer right there. That
24 is potentially a disastrous security concern. We observed
25 other doors propped open.

1 There were officers in the administrative area, not in the
2 secure area but in the administrative area who were carrying
3 guns. That's generally not acceptable, even though it's in the
4 administrative area. And as has been reported, there continue
5 to be significant issues with contraband getting into the
6 facility, indicating that there needs to be more efforts in the
7 area of security.

8 In addition to contraband, you know, the lack of security
9 certainly contributes to inmates having fights and having
10 dangerous fights. In two of the medical charts the medical
11 expert reviewed, there were inmates who had been stabbed
12 multiple times, so obviously contraband a factor there.

13 The kitchen, we haven't really focused on that, but we
14 couldn't help but observe that the food service could not show
15 that it had any special diets approved by a dietician. So for
16 hypertension or diabetes, there were no apparent special diets
17 that had been approved. And in fact, some of the kitchen
18 practices were not consistent with the needs of diabetic
19 patients in particular.

20 The menu that was posted as current was actually dated
21 2014. And then there was one issue that was particularly
22 problematic in the area of kitchen, and there had been a
23 grievance on this. We came across the inmate who had filed
24 that grievance. He had requested a kosher diet. He was not
25 being given a kosher diet. It appeared to be a bit of a

1 catch-22, although clearly there's a way of dealing with this.
2 The jail has relied on medical to request special diets.
3 Medical said that a religious diet is not something within
4 their jurisdiction, so they wouldn't request it. As a result,
5 the individual has gone some weeks now, at least, without a
6 kosher diet and was obviously very unhappy about it and was
7 trying to eat as little as possible, which was not helpful
8 either.

9 I'm getting close to the end. Medical, there was a
10 shortage in medical staff. They were down one RN, two LPNs, a
11 part-time RN at Henley-Young, a file clerk, and a discharge
12 planner who left after three months. So that's actually a
13 significant percentage of the staff and makes it difficult to
14 provide the services that are needed there.

15 Our medical expert indicates that the medical records were
16 in disarray at all three facilities. There was no organization
17 to them, making it very difficult for her and presumably for
18 the medical staff to find what they needed to track care. The
19 emergent -- or the electronic medical record that they are
20 planning on moving to has not been available to them because
21 they don't get adequate internet reception in the medical area,
22 so another IT issue that needs to be attended to. So far,
23 that's been preventing implementation.

24 And the medical provider is also required and expected to
25 provide for chronic care for certain diseases, being diabetes,

1 hypertension, AIDS, COPD. The medical expert reports that this
2 is in place in the work center and in JDC but is not in place
3 at RDC, and that's a significant problem.

4 Although it's now last, it is one of the most important
5 areas I wanted to talk about was mental health. This visit we
6 had all of the team members focus on mental health within their
7 area of expertise. In the settlement agreement, there's not a
8 separate section on mental health, but there are quite a few
9 provisions that require sufficient mental health services.

10 Paragraph 42 provides generally that the county must screen and
11 assess for severe mental illness and then provide appropriate
12 treatment and therapeutic housing. And there are additional
13 provisions that have specific requirements with respect to
14 training, use of force, segregation, increased observation, use
15 of an interdisciplinary team, youth programming, so quite a few
16 provisions that relate to mental health services.

17 So the first question is how many people there need mental
18 health services. And one of the first problematic issues is
19 are they identifying people that need mental health services.
20 And we ran into a problem right off there in that the medical
21 provider was really not able to say how many people they have
22 on their mental health case load. So that made it very
23 difficult to determine what their staffing should be and what
24 the services need to be.

25 They did provide a list of 60 individuals that may be the

1 people there with severe mental illness. If that is the case,
2 they are well below the national average for what a jail their
3 size should have in terms of people with severe mental illness.
4 A jail their size would normally be expected to have about 140
5 individuals with severe mental illness. And as I mentioned,
6 they appear to be identifying 60.

7 A jail would also have another 120 or so on a mental
8 health case load but without severe mental illness. And again,
9 they don't really even know what that number is if there are
10 additional people that they consider on the case load.

11 And I should say that this not only deprives the
12 individuals who need mental health services of those services,
13 but also it really contributes to being able to manage the
14 inmate population. If you have people with mental illness who
15 are not identified and not being treated, you have people that
16 are probably posing a management problem at times.

17 So one of the things that was suggested as a reason for
18 why they might be under-identifying is that because behavioral
19 health services are not provided extensively in the community,
20 that that may be why they are not being identified in the jail.
21 Typically, a screening involves, you know, have you been
22 receiving services, are you on meds, have you ever been
23 inpatient in a hospital. And with a lack of community-based
24 services, that would explain, in part, why they are not
25 identified there.

1 So then there really needs to be an evaluation of their
2 screening and assessment process to determine why they are not
3 identifying more individuals. And then once that is
4 identified, they can look at the staffing level, we can look at
5 the staffing level.

6 Assuming they are at the national average, and there's no
7 reason to assume that they wouldn't be, the -- one would
8 normally expect to see about 1.4 full-time equivalence of
9 psychiatry time. That's based on the American Psychiatric
10 Association recommendations for jails. Their current contract
11 provides for eight hours a week, significantly different from
12 1.4 FTE. They have a psychologist who comes in for some period
13 of time, also a matter of hours, and that is clearly
14 insufficient for the jail.

15 Social workers, they have one full-time social worker for
16 all three facilities. Just as a comparison, Henley-Young has
17 three case managers for, right now, ten youth. That probably
18 is a little rich. They were anticipating more youth in the
19 facility, but still, as compared to one social worker for 700
20 individuals, it's significantly different.

21 So there's clearly a need for more staffing. We intend to
22 drill down a little on that and be able to provide more of a
23 specific recommendation as to what that staffing should look
24 like.

25 They also are in need of therapeutic housing for those

1 individuals that really can't maintain stability in general
2 population. They do put mental health inmates on C-1, one of
3 their housing units, but it is clearly not a therapeutic
4 housing situation. There's no criteria for being placed there.
5 There's no therapeutic programming, no specially trained staff,
6 no specific policies and procedures. Many appear to simply be
7 on lockdown in a particular unit.

8 In addition, many of the people on the segregation unit,
9 B-3, appear to have mental health issues, but they also don't
10 really have another location to go because of the lack of
11 therapeutic housing. They would really need to be assessed and
12 evaluated as to whether they could maintain in therapeutic
13 housing if it existed, and then I think you would see some of
14 those people in segregation actually moving to mental health
15 housing.

16 Nurses are doing daily rounds of segregation. That is
17 actually an improvement. They weren't doing that before. They
18 were actually getting informed of people that are in
19 segregation. The social worker, however, is only going twice a
20 week. Given that there's only one of her, and that's
21 understandable, but the consent decree actually requires that a
22 mental health trained individual does the rounds of
23 segregation.

24 There also should be interdisciplinary teams between
25 security and mental health staff to staff those who are the

1 highest need, highest risk individual.

2 The suicide observation situation is very, very
3 problematic. Essentially, the correctional officers decide who
4 goes into suicide observation. It appears that if anybody says
5 they are feeling suicidal, they are put into observation, and
6 it's good that the officers err on the side of that, since they
7 are not trained. However, that results in a lot of people in
8 the suicide observation and staying in observation because
9 their policies do say that you can't get out of that until you
10 are seen by a doctor, the psychiatrist or the psychologist.
11 And as I mentioned, they only have limited hours at the
12 facility, so people end up in that for long periods of time.

13 So at the time of our visit, there were nine people in
14 suicide observation. And again, as a comparison, our
15 correctional expert previously ran a jail of about 4,000
16 individuals, typically had four people in suicide observation
17 at any given time. This is nine people in a jail of about 700,
18 many more than should be in there. And part of the problem
19 with that is the facility itself is not really suitable.

20 They had several small cells. When we were there, there
21 were four men in two of those cells and one alone, so four men
22 in a very small cell for a period of days, maybe up to a week,
23 who were reportedly unstable at the time. They were obviously
24 very agitated, bouncing off the walls. There were three
25 altercations in there during the course of our visit, a very

1 inappropriate setting for them.

2 The records that were maintained did not reflect
3 consistent observation. The doors, once again, are almost
4 solid, do not really allow for adequate observation. The
5 medical expert and the correctional expert recommended that the
6 use of these cells be discontinued as soon as possible for
7 suicide watch. And this, again, would be a potential use of
8 one of those isolation units if the repairs were made to
9 actually make it usable.

10 It does appear that some of the inmates in suicide watch
11 were not actually suicidal, that they appeared for their
12 safety. That's what they said, and the staff seemed to confirm
13 that. And obviously, in that situation, they should really be
14 addressing the underlying issue both of the safety and
15 potentially protective custody units, again, needing those
16 isolation units for protective custody.

17 And lastly, as I mentioned, the discharge planner left
18 after three months, and so the role that she was to play is not
19 happening. There has been some effort towards looking at
20 diversion. The Hinds County Behavioral Health Office held a
21 sequential intercept mapping meeting, which is to identify
22 places in the criminal justice process where people might be
23 diverted out of the process and into mental health services.
24 So having that happen was a good step.

25 The medical provider is providing discharge medications up

1 to a two-week supply, which is what the behavioral health
2 entity said was needed in order to actually have the time to
3 get them into community-based services. Unfortunately, many of
4 the individuals in jail are discharged without medical knowing,
5 so they don't get their meds before they leave. And one of the
6 recommendations in that area is that a check by medical become
7 part of the releasing process, so that typically in the
8 releasing process you have a matrix which identifies each place
9 you need to get an okay before a person can be released. So
10 it's usually property, commissary, and making medical part of
11 that, so people that are needing discharge meds get them.

12 The other thing, even when the discharge planner was
13 there, there were a number of opportunities to coordinate with
14 Hinds County Behavioral Health and actually bring them into the
15 facility. There wasn't any follow-through on those.

16 When there is additional staffing, whether it's a
17 discharge planner or additional social workers, that really
18 needs to be utilized. It's a great potential resource for the
19 jail to help people transition safely into the community and
20 ideally not to come back. But this always comes back to the
21 issue of sufficient mental health staffing.

22 So I mentioned some progress in various areas, obviously
23 some areas in great need of improvement. Even those areas of
24 progress, however, I want to emphasize the need to sustain
25 that. There's so much work that needs to be done there, it's

1 easy to put one's attention in another area and let something
2 that's already being achieved backslide, and it's real
3 important that we stay on top of all these improvements to make
4 sure there is no regression. And that completes my report.

5 **THE COURT:** All right. Thank you very much. Very
6 thorough. And before I open the monitor up to questions, I
7 understand that the seats in the back of the courtroom might be
8 uncomfortable. I will offer at this time, if anyone would like
9 to stand up and stretch their legs, that goes for counselors as
10 well, you may do so at this time.

11 All right. Any questions on behalf of the government of
12 the monitor at this time?

13 **MR. CHENG:** Yes, Your Honor. I would like a little
14 bit of clarification regarding the example of the individual
15 who may have spent several years muddling through the
16 competency process. My understanding is, on their return, it
17 wasn't quite clear whether they really should have been sent
18 through the civil commitment process or whether they really
19 were still awaiting trial.

20 The reason it does matter is, while we don't have a lot of
21 say in this case about how state handles the forensic mental
22 health system, the jail is required, under paragraph 94, to do
23 a better tracking of its mental health caseload so it knows
24 where people are in the competency evaluation process and to
25 make the proper notifications to keep that system moving.

1 So if the monitor could perhaps elaborate a little bit on
2 that situation, that would be helpful.

3 **MS. SIMPSON:** That would be fine. I'm looking for my
4 notes specifically on that individual.

5 So, again, I would say there's a couple of barriers to
6 actually understanding what is going on. One is that the
7 people over records don't fully understand the system, and so
8 it's not always clear that what's in the JMS is accurate, and
9 they don't necessarily have -- they don't have access to the
10 circuit court docket to get further clarification.

11 I think that individual -- it does appear to be awaiting
12 trial -- that was treated to competency and is now awaiting
13 trial. There was another individual that is also sort of
14 caught up in the competency system, and this appeared to
15 present another systemic issue. And this was an individual who
16 competency was raised, went to the hospital, was found to be
17 nonrestorable and continues to be held in the jail.

18 And it appears that he is -- again, I'm not an expert on
19 Mississippi law by any means, but it would seem that once
20 you're found to be nonrestorable that you are not at that point
21 being held in the jail pretrial. It's unclear to me what the
22 legal authority for holding him in the jail is.

23 It would seem that unless Mississippi law provides for
24 either that person going to the state hospital or going through
25 a civil commitment process, that it is unknown to the jail

1 where he is in the system. But I believe that he would be
2 waiting for a civil commitment at that point. And while he is
3 waiting for it in jail, I don't know. That would not seem to
4 be the right place.

5 I do have the names of those individuals for tracking --

6 **MR. CHENG:** Yes. I think one of the concerns here is
7 that there are some pretty serious constitutional and federal
8 laws issues if someone is being held basically for civil
9 reasons in a jail, especially if it is unclear how long they
10 are going to be there. One of the safeguards built into the
11 agreement is to try to alert the proper authorities, the public
12 defender or others so that those people's rights can be
13 protected in an individual level, but the jail still has a role
14 to play in this case. And so keeping good records and knowing
15 where people are and having medical staff understand that
16 process, that is still something required of the county. I
17 have no other questions from Ms. Simpson.

18 **MS. SIMPSON:** And I should say I did check the state
19 hospital list on that individual. He is listed as waiting for
20 a bed, and they have the abbreviation for commitment as the
21 type of bed he is waiting for. But that doesn't answer the
22 question of what the authority is for him continuing to be in
23 jail.

24 **THE COURT:** All right. Any questions of the monitor
25 on behalf of defense?

1 **MR. TEEUWISSEN:** Yes, Your Honor. Ms. Simpson, do
2 you have an understanding that Hinds County has a budget
3 deficit?

4 **MS. SIMPSON:** I've been informed of that, yes.

5 **MR. TEEUWISSEN:** What efforts have you or the monitor
6 team undertaken to make sure that paragraph 42 of the consent
7 decree is being complied with?

8 **MS. SIMPSON:** And by that, I think you mean that the
9 sheriff is directed to prioritize resources for the compliance
10 with the provision of the settlement agreement.

11 **MR. TEEUWISSEN:** Yes.

12 **MS. SIMPSON:** Our team routinely meets with the
13 sheriff on the operations side as well as the detention side
14 with every visit. And we have worked with the sheriff's office
15 to identify the positions that are allocated to operations
16 versus detention, and certainly advocated for increased
17 positions with detention. And we continue to advocate with the
18 various agencies within the defendant to prioritize compliance
19 with the settlement agreement and will continue to do that.

20 **MR. TEEUWISSEN:** In doing so, are you aware of
21 whether the sheriff submitted a timely budget by statute?

22 **MS. SIMPSON:** I believe I heard that he did not. I
23 know a budget ultimately was passed, and -- but in terms of
24 whether all the -- time requirements leading up to that, I
25 don't know.

1 **MR. TEEUWISSEN:** Okay. Your Honor, those questions
2 were asked because the county -- the board of supervisors
3 continues to have some concerns about whether paragraph 42 is
4 being complied with by the sheriff in terms of priority of
5 budget.

6 I don't think those need further exploration today, but I
7 am putting the Court on notice -- and I've had this discussion
8 with Monitor Simpson before, so this was not an ambush
9 question, Your Honor -- that as we go through the new budget
10 year, that's going to continue to be a concern.

11 I will represent to the Court that the sheriff's budget
12 takes 42 percent of the county general fund, and the county is
13 running approximately an eight-percent budget deficit.

14 Your Honor is aware we have to balance that budget every
15 year. We have had reserves which have carried us through the
16 previous budget deficits. It is unlikely we will have those
17 after this year, so I'm trying to get ahead of that issue.

18 Thank you. That's all I have, Your Honor.

19 **THE COURT:** Ms. Simpson, you may have a seat. Thank
20 you, ma'am. I appreciate the work that you are doing on this
21 case.

22 **MS. SIMPSON:** Thank you.

23 **THE COURT:** All right. What says the government?
24 You've heard the report by the monitor. You've heard what I
25 would consider an important aspect or issue that was just

1 brought up by the defense. Do you have any comments at this
2 time?

3 **MR. CHENG:** The only thing we ask for the Court to
4 continue to do, Your Honor, is to continue monitoring this
5 case. We do think there may be a proposed schedule for
6 additional monitoring conferences like this one, and we hope to
7 be able to submit something to the Court formally.

8 At minimum, we would like to do a telephonic conference
9 sometime before the next tour is scheduled, and then possibly
10 another face-to-face conference a few months down the road
11 after that tour. The thinking is that we will then be able to
12 use these face-to-face conferences -- after the experts have
13 completed a tour, they will have a little bit more time to
14 prepare their views and recommendations before they give you a
15 formal briefing. I'm sorry. It's a few weeks after the next
16 tour. But we would still also want the phone conferences as
17 well.

18 **THE COURT:** And is the monitor in agreement, Ms.
19 Simpson?

20 **MS. SIMPSON:** Yes, Your Honor. Now that we have been
21 through one cycle of this, I think what seems to make the most
22 sense, as Mr. Cheng suggested, is that between now and the next
23 site visit, so sometime in probably early December, we have a
24 telephone status conference.

25 The next site visit should be the very end of January, I

1 believe, and in order to give my experts time to sort of digest
2 what they have seen and provide me some feedback, I think
3 probably about a month after the site visit, a face-to-face
4 status conference would be good. That would be late February,
5 early March.

6 **THE COURT:** All right. Ms. Simpson, I'm going to
7 defer to you, as to aside from the obvious counselors that
8 would be present and participate in the telephone conference,
9 any additional parties you deem necessary, simply notify the
10 respective counselors.

11 **MS. SIMPSON:** I will do that, Your Honor.

12 **THE COURT:** All right. Any objection to that on
13 behalf of the defense?

14 **MR. TEEUWISSEN:** No, Your Honor. And in fact,
15 Mr. Cheng and I had discussed this before today, and Hinds
16 County is in agreement that we need to keep the schedule --
17 perhaps tweak the order but keep the schedule of routinely
18 advising the Court where we are in getting feedback.

19 **THE COURT:** I guess as an officer of the court, do
20 you find it productive?

21 **MR. TEEUWISSEN:** Absolutely, Your Honor.

22 **THE COURT:** Okay. All right. Well, I remain
23 committed. Any further comments on behalf of the defense at
24 this time?

25 **MR. TEEUWISSEN:** Yes, I do have a few, Your Honor.

1 May I step to the podium?

2 **THE COURT:** You may, sir.

3 **MR. TEEUWISSEN:** Your Honor, on behalf of Hinds
4 County, I feel like I'm about a mile south of here drowning in
5 deep water. Ms. Simpson went through a long list of concerns,
6 valid concerns, constitutional concerns. This is not going to
7 be achievable overnight. It is going to take time. We are
8 changing a culture. With that in mind, I think there are a few
9 things that I would like to put emphasis on on behalf of Hinds
10 County.

11 First and foremost, the issues with the criminal justice
12 system are well beyond anything that the board of supervisors
13 or the sheriff can control. As Your Honor is aware, it's a
14 state criminal justice system. Save the public defender's
15 office, which the board funds, they have very little control
16 over that situation.

17 We are working with the appropriate individuals. We have
18 had a commitment by our Supreme Court. Chief Justice Waller
19 has, for lack of a better term, blessed our efforts and
20 encouraged us to use the Supreme Court as a resource. We are
21 likewise exploring other administrative ways to work with our
22 criminal justice partners.

23 I would also want the Court to note that we have some
24 challenges with our district attorney. I will not say anymore.
25 I don't think anymore needs to be said, but we have yet to have

1 the district attorney participate in anything in a meaningful
2 way. And until we get that, Your Honor, we are going to remain
3 challenged with moving individuals through the jail.

4 I also want to point out to Your Honor, with respect to
5 programming for juveniles, we have a challenge there as well.
6 We utilize the Jackson Public School District to provide
7 educational programming. That remains a challenge. The
8 Governor is certainly -- is considering whether to issue an
9 emergency takeover of the district. And so, quite frankly, our
10 needs for juveniles have not been a priority with the school
11 district, but we continue to emphasize those.

12 I think the juveniles is an area of success that we don't
13 get enough credit for, and I want to stress this again. We
14 currently have six individuals who are charged as adults,
15 including one who is charged with capital murder in the
16 Henley-Young facility. That was done with the blessing of
17 Leonard Dixon, who is the monitor in the Southern Poverty class
18 action, and the blessing of Jim Moser, who is the monitor with
19 respect to juvenile matters before Your Honor in this matter.

20 That has gone well. I almost want to knock on wood, like
21 saying somebody doesn't miss a free throw. I'm afraid I'm
22 going to jinx us. We are making progress there. Mr. Dixon
23 believes that notwithstanding any concerns from Southern
24 Poverty, he believes he will recommend to Judge Jordan, who is
25 the Article III judge on that matter, that Henley-Young come

1 out from under that consent decree in 2018.

2 He is likewise concerned about transferring any juveniles
3 who have already spent time in Raymond to that facility,
4 difficulty of integrating those, but is comfortable that as new
5 juveniles are arrested and charged with crimes, they can come
6 directly to Henley-Young. That would give them better
7 education, better programming.

8 Your Honor, I'm not saying Henley-Young is perfect, but it
9 is light years beyond any of the other facilities because we've
10 had a head start in getting it there. And so we feel
11 comfortable that the juvenile situation is headed in the right
12 direction.

13 I also want to direct the issue of policies and
14 procedures. Your Honor, we would hope to have a short timeline
15 and a significant report by our January visit from the monitor
16 team on their project. Quite frankly, the county solicited
17 quotes to do those. The sheriff did not feel he had anyone
18 in-house who could do those, and the quotes came back well
19 above a hundred thousand dollars to write those.

20 In a time of budget concerns, the board asked us to look
21 for alternatives. We are engaging graduate students from
22 Jackson State University, but in conjunction with Dr. Jim
23 Austin and Mr. Morris Thigpen, who are also consulting to help
24 make sure we get the proper policies and procedures. Mr.
25 Thigpen and Dr. Austin have the expertise for using the

1 students as free or discounted labor. But I want to emphasize
2 to the Court that we expect a significant progress report on
3 that by January.

4 With respect to the issue of maintenance, Your Honor, I've
5 represented the county now for four years. I've watched the
6 county spend \$8 million in maintenance. I've watched the
7 county do everything that's been recommended by the monitor
8 before she ever got hired and everything else that could be
9 thought of. Maintenance is a reflection of staffing. When you
10 don't have appropriate staff, things get torn up.

11 The county is taking another approach. For fiscal year
12 2018, which started October 1st, the county has taken empty
13 maintenance slots and has engaged a contractor who will be on
14 call 24 hours a day, seven days a week. You may have seen me
15 pass a note to the county administrator during Ms. Simpson's
16 presentation. I wanted to confirm that that is in the
17 implementation process. We don't know whether this will solve
18 our solution, but again, we are looking at a different approach
19 to speed maintenance and have improved maintenance.

20 Your Honor, the facility, Raymond facility, the main
21 facility, was built in 1994. The day after it opened, there
22 were lawsuits about the design and the construction. It's an
23 albatross that this sheriff and this board inherited, and they
24 are collectively trying to do their best job at tackling the
25 maintenance issues. We suspect that's going to always be an

1 issue. We just need it to be a smaller issue.

2 With respect to the food contractor and medical
3 contractor, those are not county employees but are under
4 contract. Ms. Davis, the county administrator, is here, along
5 with the board president. Each of them share similar concerns,
6 and we've asked Ms. Simpson. We rapidly await the
7 documentation that those contractors are short in performance
8 delivery, whether it's the meals or the mental health
9 assessments, and we will take those, renegotiate our contracts
10 accordingly and hopefully address those situations.

11 With respect to the mental health and not knowing who is
12 in the jail, Ms. Simpson is absolutely correct. Got a little
13 bit of good news, though. This assistance from the Department
14 of Justice, Hinds County, Jackson State University and
15 Mississippi Urban Research Center have been approved for a
16 joint grant, phase I funding, to study who's coming in the
17 front door of the jails and what mental health conditions they
18 have.

19 Week before last, there was a project kick-off meeting in
20 which we are designing the screening instrument that will be
21 used for every individual that comes in the facility. We
22 expect that phase I to take approximately a year, may take 18
23 months, to get solid data as to who is coming in the front
24 door. And we are using our mental health professionals, social
25 workers and others to help design that instrument.

1 From there, I believe once the county knows exactly what
2 is mental health issues and how many are coming through, we
3 will apply for phase II funding and be able to better tailor
4 services in Hinds County for mental health.

5 As Your Honor may have heard, Justice Kitchens is putting
6 on a seminar next Wednesday for county court judges, circuit
7 court judges and justice court judges on the new criminal
8 rules. He has met with Mr. Simon on several occasions, he has
9 also met with Mr. Green, to make sure his charge is clear and
10 that he can help us get the attention of everyone in the
11 criminal justice system that when it is inefficient, the
12 problems fall in the sheriff's lap and the board pays for them.

13 Chief Justice Waller has committed to us that any IT
14 services we need from the State Supreme Court. So I heard
15 about some disconnect today and lack of access of certain
16 electronic filing. I believe that's one that we can have
17 solved fairly rapidly as well, based on the chief justice's
18 commitment that his IT people and/or those systems, he will do
19 whatever is necessary to work with us on that.

20 Your Honor, I do share one concern on behalf of the board
21 and the county administrator that was mentioned by Ms. Simpson
22 and I think needs to be our refrain. While we have made
23 progress, there is a danger of backsliding. We need Your
24 Honor's continued attention as he has pledged on this to make
25 sure that we do not backslide.

1 Parties have worked to make sure that detention funding is
2 spent on detention. Your Honor asked a question in the July
3 hearing of the sheriff, one the sheriff paused and I stopped
4 him from answering because he didn't have a ready answer: How
5 much does it cost per day to house someone? The board would
6 like to know the same question.

7 With the fiscal year having started October 1st, we are
8 committed to figuring out that cost. In other words, the
9 moving of funding between categories of detention and operation
10 is not going to occur anymore. The county administrator is not
11 going to approve that, and the board is not going to approve
12 that.

13 We have to figure out that cost for several reasons, not
14 just because Your Honor inquired, but also because we have an
15 agreement to house individuals from the city of Jackson, an
16 agreement that goes back a number of years, and we need to
17 address that with the city as well.

18 With respect to staffing, I think it would be appropriate
19 if we could ask the Court to have a commitment from the sheriff
20 that no detention funding is spent on nondetention matters so
21 we can track this straightforward significantly for the next
22 six months so we can all get a baseline of what it costs and
23 what we are working with. I will answer any questions that
24 Your Honor may have.

25 **THE COURT:** I don't have any questions of you at this

1 time.

2 **MR. TEEUWISSEN:** Thank you, Your Honor. May I stand
3 down?

4 **THE COURT:** You may. I hesitate to call it rebuttal.
5 Do you have any additional comments on behalf of the plaintiff?

6 **MR. CHENG:** No, Your Honor.

7 The only thing I would mention about Henley-Young, I think
8 the Henley-Young situation does demonstrate how all the parties
9 are as careful about security and public safety issues as they
10 are about making sure the rights of the individuals are
11 protected. We are all very sensitive that these reforms have
12 an impact on the community, and so we are being very thoughtful
13 when we work with the county on these issues.

14 **THE COURT:** Okay. I am going to -- I do want to
15 initially note that up to this point, the Court hasn't heard
16 anything to indicate that any of the relevant parties are
17 acting intentionally or I guess rather conducting themselves in
18 bad faith as it pertains to complying with or rather coming
19 into compliance with the consent decree. So I am going to note
20 that I have seen a degree of cooperation, and the Court is
21 appreciative, albeit understanding that we still have work
22 ahead of us.

23 I will set a telephonic status conference on December 5th
24 at 10:00, and the Court would be available for an in-person
25 status conference on March the 8th at 2:00. I learned a long

1 time ago not to ask if there are any conflicts when there are
2 multiple parties, but I will defer to the monitor. Ms.
3 Simpson, are you available on those dates?

4 **MS. SIMPSON:** Yes, Your Honor, as far as I know. I
5 will make myself available.

6 **THE COURT:** All right. So with that being said,
7 nothing further required on the record at this time on behalf
8 of the plaintiff?

9 **MR. CHENG:** Correct, Your Honor.

10 **THE COURT:** On behalf of the defense?

11 **MR. TEEUWISSEN:** Correct, Your Honor.

12 **THE COURT:** All right. I appreciate the update, and
13 I also appreciate the work that everyone is putting into this.
14 I know it is a difficult task, but the Court is appreciative.
15 We are adjourned. And I hope everyone has a safe trip.

16 **MR. TEEUWISSEN:** Thank you, Your Honor.

17 **MS. SIMPSON:** Thank you, Your Honor.

18 (HEARING CONCLUDED)
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2 CERTIFICATE OF COURT REPORTER
3

4 I, Teri B. Norton, RMR, FCRR, RDR, Official Court
5 Reporter for the United States District Court for the Southern
6 District of Mississippi, appointed pursuant to the provisions
7 of Title 28, United States Code, Section 753, do hereby certify
8 that the foregoing is a correct transcript of the proceedings
9 audio recorded and transcribed by me using the audio recording
10 made in this matter, and that same is a true and correct
11 transcript to the best of my ability and understanding.
12 Any inaudibles that occur in the transcript are a result of the
13 poor recording quality of the audio.

14 I further certify that the transcript fees and format
15 comply with those prescribed by the Court and the Judicial
16 Conference of the United States.

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19
20 s/ *Teri B. Norton*
21 TERI B. NORTON, RMR, FCRR, RDR
22 OFFICIAL COURT REPORTER
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